

APPROVED: Meeting No. 35-93

ATTEST: *Paula Jewell*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 30-93

September 13, 1993

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on September 13, 1993, at 7:30 p.m.

PRESENT

Mayor Pro Tem James F. Coyle

Councilmember Rose G. Krasnow

Councilmember James T. Marrinan

ABSENT

Mayor Douglas M. Duncan (absent due to illness)

Dave Robbins (on travel)

In attendance: City Manager Bruce Romer, City Clerk Paula Jewell and City Attorney Paul Glasgow.

Upon motion by Councilmember Marrinan, duly seconded, Councilmember Coyle was duly appointed to serve as Mayor Pro Tem.

Re: City Manager's Report

1. Construction of the Don Mills Court infiltration basin has begun. Staff anticipates that the entire project will be completed by November 15th.

2. The West Montgomery Avenue reconstruction project end is now in sight. There is some additional sodding work that needs to be completed and there may be a delay in the installation of the decorative street lighting. A ribbon-cutting ceremony and ice cream social are being planned for September 23rd, from 6-7 p.m. at Friends Park.

4. Mr. Romer noted that the Mayor and Council's receipt of the City's ADA Transition Plan was on the Consent Agenda. Assistant to the City Manager, Cheryl Lampkin, has been traveling around the State to give training programs on the ADA.

5. The City's Recreation and Parks Department was named a finalist in the National Gold Medal Award For Excellence in its population category for recreation and parks programs. The final award is to be presented in October in California.

6. The Pier One property is now under demolition, and completion is due the end of September. The entire property will be put into hard surface parking.

Councilmember Marrinan commended Ms. Lampkin and the Disability Access Advisory Committee on developing the City's ADA Transition Plan.

Re: Proclamation declaring the week of September 17-23, 1993, as **CONSTITUTION WEEK.**

September 17th marks the two hundred sixth anniversary of the signing of the Constitution of the United States by the Constitutional Convention.

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Proclamation No. 12-93

By a unanimous vote of the Mayor and Council, September 17-23, 1993 was declared "Constitution Week" in Rockville. The Proclamation was read, the full text of which can be found in Proclamation File No. 7 of the Mayor and Council. A representative of the Regent Col. Tench Tilghman Chapter of the Daughters of the American Revolution, accepted the Proclamation.

Re: Presentation of
Certificate of
Recognition to Davis M.
Kennedy, past Publisher
of the Rockville
Gazette.

Mayor Pro Tem Coyle and the Council noted Mr. Kennedy's accomplishments and his contributions to the Rockville community.

Re: Citizens Forum

1. Steve Abrams, 2290 Dunster Lane commended the Mayor and Council on the off-site treatment of the wetlands mitigation issue and said he hoped the City would move forth expeditiously with the project.
2. Ruth Hanessian, 303 Highland Avenue commended the Mayor and Council for exploring the possibility of permitting banners in the City, and said she hoped the Mayor and Council would consider allowing free standing banners on any area of the property in which a business presided.

3. Jay Wilke, Co-Owner, Congressional Aquarium, commented that the issue of whether or not to allow walking sign boards could determine the success or failure of a business. He noted that businesses who used the walking sign boards also provided jobs for the unemployed and the advertisements have been helpful.

4. Bob Slovic, 9 Dairyfield Court questioned when the Mayor and Council would be scheduling action on the Tower Oaks Concept Plan Development. City Attorney Glasgow responded that the materials should be forthcoming September 16th for presentation to the Mayor and Council at the next General Session.

Mr. Slovic expressed disappointment that the wetlands mitigation would not take place in the Cabin John Watershed area where the damage had been done. Mr. Slovic also said that he had just learned about the change in late summer when the contract was ready to be issued.

Mr. Romer noted that he had explained to Mr. Slovic earlier that there had not been an absolute void of interaction; however, he said, it was Mr. Slovic's concern that there could have been more interaction.

5. Bill Meyer, 804 Leverton Road said that he was happy the City started construction of the Don Mills Court facility, and he hoped once plans were underway for the other two sites, the Mayor and Council would take into consideration the concerns at the local level as they impacted neighborhoods. Mr. Meyer also said that he approved of the mitigation plan and applauded the City for doing the mitigation using an existing farmland which would

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have a far better success rate while saving the City money. He suggested the Mayor and Council wait for the completion of the COG study before discarding the Hungerford/Stoneridge pool site. In response to the previous speaker's point, Mr. Meyer said that he had been aware of the project since May.

6. Charles Lusk, 417 Mercer Road expressed objection to the Snake Tile art work being proposed for Elwood Smith Park. He said that he had not heard anything about the proposal and asked that action on the project be deferred until there was a full sitting body of the Mayor and Council. Mr. Lusk said he also could not understand why the trees around the building had been trimmed as if the project was already approved.

Re: Appointments

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Robert Ekman was appointed to serve as Chair of the Advisory Commission on Public Education.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Harriet Margolis was reappointed to serve on the Economic Development Council.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Ardell Hilliard was reappointed to serve as Chair of the Housing Authority.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Carol Hannaford was reappointed to serve on the Human Rights Commission.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Marsha Meadows, Marilyn Pierre, and Donald Wallesz were reappointed to serve on the Landlord-Tenant Affairs Commission.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Michele Walczak was appointed to serve on Rockville Sister City, Inc.

Re: Approval of Minutes

Councilmember Krasnow requested that the language on page 3, item 4, be clarified to reflect that the August 2nd Consent Agenda regarding the downtown revitalization project, would dismiss some litigation between the City and WRIT. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed (Councilmember Marrinan abstained), the Minutes of Meeting No. 29-93 (August 2, 1993) were approved as corrected.

Re: Consent Agenda

Councilmember Marrinan requested removal of Items B and G. Mayor Pro Tem Coyle requested removal of Item J, and Councilmember Krasnow requested removal of Items K and L. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda items were approved:

- A. Award of Request for Proposal No. 7-94 to Denticare (MIDA) Dental Plans in the amount of \$43,216.00 for calendar year 1994.

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The initial contract period will be one year with the option to extend for two (2) additional one year periods at the discretion of the City Manager.

- C. Approval of Bid #17-94 for Cleaning by Sweeping designated streets in the City of Rockville Limits to East Coast Sweeping, Inc. for the low bid of \$73,223.84; and authorization of the Director of Public Works to approve continuation of this program for the two option years subject to the appropriate funding.

Sufficient funds are provided in the budget for this bid for street sweeping. East Coast Sweeping, Inc. is the current contractor providing this service.

- D. Award of Bid No. 20-94 for replacement of HVAC system at Redgate Golf Course clubhouse to the low bidder, BTE Service, in the amount of \$21,000.

Sufficient funds are budgeted in the Recreation and Parks Department CIP accounts.

- E. Award of Bid No. 22-94, for the furnishing and planting of trees and shrubs, to the low bidder, McDonnell Landscape Maintenance, Inc., in the low

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bid amount of \$102,740.

Sufficient funds are allocated in the Recreation and Parks Department, Parks Division, operating budget.

- F. Approval of purchase of cold plastic pavement marking materials from the 3M Company for a total of \$30,719.50.

This is a cooperative procurement using the State of Maryland Contract #P67379. There are sufficient monies budgeted for this purchase.

- H. Award of Bid No. 19-94 for a Sharp 3075 Copier, to replace copier on the third floor at City Hall, to MPI Business Systems in the amount of \$27,582.38.

This bid is for scheduled replacement of the third floor copier. The recommendation is for the second lowest qualified bidder due to poor past experience with equipment and service by the low bidder. Funding for this purchase was included in the FY94 Public Information Office budget.

- I. Introduction of Ordinance to adopt Text Amendment Application T-134-93, Paul D. Haines, Applicant.

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Amendment to the Zoning Ordinance so as to allow covered steps, stoops and porches to encroach up to four feet into minimum side setback space.

M. Receipt of financial reports summarizing the results of City operations for the period from July 1, 1993 through July 31, 1993.

Re: Award of Bid No. 12-94, Footbridges, Twinbrook Bikepath, to H.M.F. Paving in the low bid amount of \$54,000.

Funds are allocated in the Recreation and Parks CIP budget, in addition to approved State of Maryland Program Open Space funds.

Councilmember Marrinan had requested that Item B be removed from the Consent Agenda because of a concern expressed to him about the slippery surface of the existing footbridges; he suggested that there be some type of non-slippery surface to protect bike riders and others in inclement weather situations.

Recreation and Parks Director Burt Hall noted that the concerns were being addressed in the project design. He said plans called for the bridges to be designed with a mesh surface and would be non-slippery. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the bid award was unanimously approved.

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Re: Award of \$15,000 to Ms. Deirdre Saunder for her "Ceramic Tile Snake" to be installed at Elwood Smith Park, as recommended by the artist nomination committee and the Cultural Arts Commission.

The \$15,000 project is budgeted in the Art in Public Places program of the Capital Improvements Program.

Councilmember Marrinan had requested that Item G be removed from the Consent Agenda because of the issue raised by Mr. Lusk. Mr. Marrinan noted that an extensive process had gone into the project which included involvement of the Artist Nomination Committee, two community representatives, and the Cultural Arts Commission. In addition, he said an extensive amount of discussion took place as well as efforts to reach out to the community. Mr. Marrinan said it was unfortunate that Mr. Lusk was not involved in the planning early in the project and therefore did not get his concerns addressed. Mr. Marrinan questioned whether staff had looked at whether the tress over the Elwood Smith facility presented an obstruction to the art and could the obstruction be removed without harm to the trees.

CAC Chair George Northway confirmed that there was involvement from the neighborhood, and he said that articles were included in "Focus On The Arts".

Burt Hall said that staff had been in the process of cutting the trees as part of the regularly scheduled building maintenance. Responding to a question from Ms. Krasnow, Mr. Hall said that the brick wall of the building might need some regrouting work; however, this

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had not been identified as a major maintenance project. Mayor Pro Tem Coyle asked that this be looked at before the art work was installed.

Councilmember Marrinan commented that there was no useful purpose in delaying action on the issue and he moved that the Mayor and Council proceed with action on the agenda item.

Councilmember Krasnow said in looking at the four works of art, she feels this was the best proposal and said she was willing to vote for it if the Mayor and Council were willing to go back and look at the process about neighborhood awareness involvement.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the award for the Ceramic Tile Snake project was approved.

Re: Acceptance of application for Text Amendment T-139-93, Rockville Planning Commission, Applicant.

Amendment to the Zoning Ordinance so as to eliminate convents, monasteries, parish houses and parsonages as permitted uses in residential zones, and provide for such facilities as accessory uses on the same lot as a place of worship.

Mayor Pro Tem Coyle had requested that Item J be removed from the Consent Agenda to inquire if the proposed text amendment was the result of problems the City was having. Chief of the Planning Division Larry Owens said the issue of parish houses being permitted in residential zones had come up on two different occasions. He noted that the Planning Commission had dealt with two cases over a number of years and although the question no longer existed, the Commission felt it was an appropriate time to deal with the issues to offset the types of problems that had developed in the past.

Upon motion of Mayor Pro Tem Coyle, duly seconded and unanimously passed, the application for Text Amendment T-139-93 was accepted.

Re: Acceptance of application for Text Amendment T-140-93, Rockville Center, Inc., Applicant.

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Amendment to the
Town Center Article of
the Zoning Ordinance to
establish a new optional
method of development
in the Town Center
Mixed Use - Two Zone.

Councilmember Krasnow had requested that Item K be removed from the Consent Agenda because she said there were several vague applications in the Text Amendment that she felt more background materials were needed before the issue went to the Planning Commission. Ms. Krasnow noted that she had identified for staff what the discrepancies were. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the application for Text Amendment T-140-93 was accepted.

Re: Receipt of the City's ADA
Transition Plan.

The Transition Plan is required under the Americans with Disabilities Act (ADA) if structural changes are required to make facilities accessible. A transition plan outlines the strategy of a local government to address structural barriers to access. Over 100 individuals including boards and commission members and organizations that use the facilities helped develop the City's Transition Plan, including the barrier prioritization section.

Councilmember Krasnow had requested that Item L be removed from the Consent Agenda because she was interested in knowing how staff planned to proceed with implementation of the plan. Ms. Lampkin explained that the Transition Plan involved pulling together a variety of different projects that the City would have to undertake. She said that prioritization of the projects would be according to a developed work plan where staff would address what City facilities were involved and what the different barriers were. Ms. Lampkin explained that funding for bringing the facilities into compliance would come from the CIP. Ms. Lampkin noted that Rockville was in the forefront of all of Maryland's local governments and nationally, and the City had taken the right steps.

Councilmember Krasnow pointed out that there were a number of City driveway aprons which were not in compliance with ADA and she said that citizens could request that the City eliminate the lips on residential driveways.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the ADA Transition Plan was received.

Re: Approval of waiver for on-site SWM for the construction of a single family house at 404 Park Road in the Rock Creek drainage area, and the acceptance of \$3,200 contribution for the off-site SWM fund.

The runoff from this site is conveyed to the Maryvale-I SWM facility. Waiver category: I-A-1.

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Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the waiver for on-site SWM for the construction of a single family house at 404 Park Road was approved, and the \$3,200 contribution for the off-site SWM fund was accepted.

Re: Approval of waiver for on-site SWM for the Twinbrook Pool property, a 5.7 acre parcel on Atlantic Avenue in the Rock Creek drainage area, and the acceptance of \$19,000 contribution for the off-site SWM fund.

The runoff from this site is conveyed to a tributary of Rock Creek. Waiver category: III-A-4,5.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the waiver for on-site SWM for the Twinbrook Pool property was approved, and the \$19,000 contribution for the off-site SWM fund was accepted.

Re: Approval of waiver for on-site SWM for the construction of a single family house at 717 Beall Avenue in the Watts Branch drainage area, and the acceptance of \$2,400 contribution for the off-site SWM fund.

The runoff from this site is conveyed to the Wootton Mill Park SWM facility. Waiver category: II-A-1.

Re: Approval of waiver for on-site SWM for Julius West Middle School, a 21.4 acre parcel on Great Falls Road in the Watts Branch drainage area, and the acceptance of \$96,000 contribution for the off-site SWM fund.

The runoff from this site is conveyed to the existing Rose Hill Falls SWM facility No. 5. Waiver category: I-A-5.

The Mayor Pro Tem and Council pointed out that the City would have to draw the line on the approval of waivers for on-site SWM; staff was asked to look at the process for granting these types of waivers and report back to the Mayor and Council. The Mayor and Council also asked that when larger SWM sites were being considered, the City should get some feedback from the Stormwater Management Committee. Upon motion made, duly seconded and unanimously passed, the waivers for on-site SWM for the construction of a single family house at 717 Beall Avenue and for a 21.4 parcel site at Julius West Middle School were approved and the contributions for each were accepted.

Re: Report on current regulations and suggested changes to the Sign Ordinance and the Traffic Ordinance concerning temporary banner signs, and advertising by persons in the public right-of-way.

Staff has worked with the business community to determine their needs for

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temporary signage, and are also suggesting regulations to eliminate the hazard associated with pedestrians in the median strip and roadway lanes.

Linda MacDermid, Chief, Inspection Services Division, presented to the Mayor and Council the report on temporary banner signs and pedestrian use of rights-of-way.

Councilmember Krasnow noted that there were only 13 responses received from the Chamber of Commerce survey. She questioned whether the proposal to allow banners to go up 6 times per year, fifteen days at a time put a large enforcement responsibility on staff. Ms. MacDermid responded that businesses would be required to post a cash bond based on the size of the sign; she said if a sign was not removed at the expiration of a permit, the business owner forfeited the money. Ms. MacDermid also pointed out that the City's implementation of a permit plan tracking system allowed for a computer-generated list of signs that have expired.

The Mayor and Council discussed the concerns made by earlier speakers regarding whether the proposed law would help many of the businesses. Staff was asked to investigate what Gaithersburg's and Montgomery County's experience was in regards to the time frame issue. Staff was also asked to look at other options to consider; i.e., permitting banners attached securely and safely to free standing signs.

Ms. MacDermid explained the proposal on pedestrian use of rights-of-way.

The Mayor and Council asked that staff look at the options that would provide

businesses with a workable solution to benefit store owners but eliminate the use of costumed portable sign carriers because of the safety issue.

Re: Discussion and instructions to staff regarding levy of special assessments for construction of Wootton Parkway and water transmission main between Seven Locks Road and Rockville Pike.

Mr. Romer explained that this issue was again before the Mayor and Council after a long period of time for discussion and instruction to staff. Mr. Romer gave an overview of the relationship between the City and Woodmont Country Club and a history of the project. He said that financing for the project had been based on guiding principles; i.e., cost participation by governments and recording a portion of the cost for the project by a special assessment. He said the City went through a long series of negotiations and did not find that Woodmont was willing to accept a discounted or favorable rate for the land; they, instead, insisted on being paid market rate for the land. The City felt that point, there was no need for special conditions for the special assessments and an appropriate levy was recommended. Mr. Romer said the City paid Woodmont \$6.4 million for land needed to build a roadway plus some residual land that Woodmont insisted the City purchase. The project was now complete, and according to the plan, the City had come forward with special assessments for the project. Mr. Romer noted that a hearing conducted on 5/17/93 was continued to 6/21/93 and the record was kept open for four additional weeks until July 19th. He said the matter was brought to the Mayor and Council's attention on 7/27/93, at which time, Woodmont requested additional time

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which was granted by the Mayor and Council, keeping the record open until September 3rd.

The City received a number of exhibit items and staff has reviewed all materials submitted.

Mr. Romer said it is the City's conclusion that there was no reason to deviate from the original plan to levy special assessments.

Mr. Glasgow reminded the Mayor and Council that there was extensive information provided by Woodmont, the City, consultants and two appraisers. He said that Woodmont requested additional time to present additional information. Mr. Glasgow noted that the City Manager and staff had looked at the additional information and found the approach of the City's appraisers was sound and the levy of special assessments was appropriate.

Councilmember Krasnow said that in reviewing everything presented, it was clear there seemed to be some debate on the value of the properties; however, she saw no reason not to go with the special assessment as was set forth.

Upon motion by Councilmember Marrinan, duly seconded and unanimously passed, staff was directed to place the special assessments levy ordinances, as originally introduced for adoption, on the Mayor and Council's September 27, 1993 agenda.

Re: Progress report on solid waste disposal alternative project.

Mr. Kuckkhan gave some background on the project and reported on the progress made in developing a contract with Waste Management, Inc. for disposal of the City's solid waste and construction of a transfer station on City property. He said that homeowners and businesses were sent copies of the Task Force report and informed of the entire process. The primary concerns raised were regarding traffic impact in residential neighborhoods and the issue

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of safety and road capacity. Mr. Kuckkahn said the draft contract was completed and would be forwarded to Waste Management after all comments were incorporated based on the public hearing. Mr. Kuckkahn said that members of the Task Force visited landfill, transfer station, compost and recycling sites and made note that there were some peak times for truck traffic. He said the committee was sensitive to this and began a traffic methodology study and was expected to have a report ready for the Mayor and Council at the public hearing. Mr. Kuckkahn said he was pleased with the progress and was looking forward to the public hearing on September 23rd.

Councilmember Krasnow asked that staff produce more information on what the City's liability will be.

Re: FYI/Correspondence

1. Councilmember Marrinan commented that the Volunteer Appreciation Party held September 10th was superb and a true testament to the City residents' involvement in the public process.
2. Councilmember Marrinan commented on the surprise safety inspection conducted by MOSHA; he said the City came away with relatively minor corrections.
3. Mayor Pro Tem Coyle noted that the Oktoberfest celebration would be September 18-19.
4. Councilmember Krasnow referred to a letter expressing concern over the removal of trash cans in City parks; the letter indicated that this idea was not working and

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Ms. Krasnow asked whether staff had received any other feedback. Mr. Hall noted that the City had received some feedback although none of it was substantially positive or negative.

5. Councilmember Marrinan remarked that the Member Services Report for 1992 noted the City's role of leadership in cooperative purchasing and the savings that the City realized in participating in cooperative purchasing. Mr. Marrinan said the Report also noted the Councilmembers and management staff who served on various COG committees and he said that the involvements were a testimony to Rockville's concern about regional cooperation.

6. Mayor Pro Tem Coyle noted the presence of Howard Silberstein who had been active in the City's Human Rights Commission.

Re: New Business

1. Councilmember Krasnow commented that she had attended the Taste of Rockville event sponsored by the Rockville Jaycees and was impressed with the work the organization had put into the event.

2. Councilmember Krasnow asked if the City had statistics on the number of accidents resulting from pedestrians who attempted the cross Rockville Pike; she asked if the City could start a re-education plan on the correct use of the median strips.

3. Councilmember Krasnow said that she recently noticed that the MARC train platform was filthy and marred by graffiti and although it was not under the City's jurisdiction, it was an unattractive entrance to the City. She asked that staff follow up on this with the appropriate officials.

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4. Mayor Pro Tem Coyle commented that Citizen Service Request report recently issued was excellent.

5. Mayor Pro Tem Coyle noted that the Scott Drive Committee had put together a report on some traffic concerns; he said he looked forward to getting a report back on how to remedy the concerns raised.

6. Mayor Pro Tem Coyle commented that the City's 1993 Annual Report was an excellent report on the accomplishments of the City.

Re: Next Meeting

Public Hearings were scheduled for September 20, 1993 on the Master Plan, CDBG Funding Proposals, Text Amendment T-136-93 (regarding multiple buildings on single use permits); Text Amendment T-138-93 (regarding reducing the size of the Planning Commission); and Map Amendment M-60-93 (regarding a request for a zoning change).

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 10:13 p.m., to convene again in at 7:30 p.m. on September 20, 1993, or at the call of the Mayor.